



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/641,866	08/18/2000	Charles E. Bernasconi	P/3639-21	7547

7590 06/15/2005
GRAYBEAL, JACKSON, HALEY, LLP
 155 108TH AVENUE N.E.
 SUITE 350
 BELLEVUE, WA 98004

EXAMINER

BLECK, CAROLYN M

ART UNIT	PAPER NUMBER
3626	

3626

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/641,866	Applicant(s) BERNASCONI ET AL.	
	Examiner Carolyn M Bleck	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 February 2005.
- 2a) This action is FINAL.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 17,23-28,30-32,36,37,42,43,49,50,53 and 59-71 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 17,23-28,30-32,36,37,42,43,49,50,53 and 59-71 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 4 February 2005. Claims 17, 23-28, 30-32, 36, 37, 42-43, 49-50, 53, 59, and 60-71 are pending. Claims 26, 44, and 58 have been amended.

Claim Rejections – 35 USC § 112

2. The rejections of claims 26, 44, and 58 under 35 USC § 112 are hereby withdrawn due to the amendment filed 4 February 2005.

3. The rejections of dependent claims 27-28, 30-31, 36, 49-50, 59, 62-63, 66-67, and 70-71 are hereby withdrawn due to the amendment filed 4 February 2005.

Requirement for Information under 37 C.F.R. § 1.105

4. Applicant has provided information regarding pending litigation in this case. See page 9 of the response filed 4 February 2005.

37 CFR 1.131 Affidavit

5. The 1.131 affidavit filed on 4 February 2005 under 37 CFR 1.131 is sufficient to overcome the Bukow (6,567,784) and Joao (6,662,194) references.

Claim Rejections - 35 USC § 103

Art Unit: 3626

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 17, 23-28, 32, 37, 44, 51, and 58-59 rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsuoka et al. (6,466,914) and Van Wyngarden (6,038,597).

(A) As per claim 17, Mitsuoka discloses a method for brokering jobs in an open network environment, such as the Internet, comprising (Abstract):

(a) providing a contractor information storage portion or database for storing information concerning the ability of each contractor to process a job (Fig. 16, col. 7 lines 46-56, col. 8 lines 55-67, col. 19 line 43 to col. 20 line 22);

(b) providing a job offer by a job-provider client, wherein the job offer has job information associated with it (such as word count, due date, etc. which reads on "qualifications") (Fig. 3, 19, col. 7 line 59 to col. 8 line 24, col. 12 line 54 to col. 13 line 30);

(c) determining by a contractor candidate determination portion contractor candidates who can become contractors for the job offer based on the information concerning the ability to process a job of each contractor stored in the contractor information storage portion when receiving a job offer request from the job-provider client and calculating the suitability of the contractor candidates based upon the stored ability information by a suitability calculator, wherein the determining step is performed

Art Unit: 3626

by retrieving information from the database and offering the job only to those contractors that qualify for the job (col. 10 lines 2-50, col. 19 line 42 to col. 20 line 43);

(d) forwarding a job offer notification to all contractors based on whether the contractors' schedule is free, sending out a job offer notification only to contractors who have at least a certain aptitude value necessary for the job, and transmitting a job offer notification to contractors based on the level of difficulty and importance of the job to the appropriate contractors, wherein the job offer notification is available via email or on a website, and wherein the contractor and job-provider register with the system (col. 1 lines 15-29, col. 7 line 65 to col. 8 line 25, col. 9 lines 46-54, col. 10 line 1 to col. 12 line 53).

The Examiner respectfully submits that Mitsuoka's method of allowing a contractor to register, wherein the method is implemented over the internet using HTTP protocol and email, and wherein a website is used to display notification of jobs would include using a pass code to access the job offers. In particular, the Examiner notes that almost all email systems or websites requiring registration have a user name and password requirement to access the system. However, because Mitsuoka does not explicitly disclose a pass code, the Examiner respectfully submits that Van Wyngarden teaches a website with a pass code accessible over the Internet (Abstract; col. 5 lines 15-43, col. 6 lines 14-32).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the aforementioned features of Wyngarden within the method of Mitsuoka with the motivation of allowing a candidate to pre-register for jobs

Art Unit: 3626

that suit their qualifications and quickly ascertain whether they have been chosen for the job (col. 1 lines 15-28 and lines 39-56).

(B) As per claim 23, Mitsuoka discloses that the communication portion and notification portion for interacting with contractors using HTTP and e-mail (col. 7 line 65 to col. 8 line 10). Further, Mitsuoka discloses that there are many ways to realize such communication portions and such notification portions (col. 7 line 65 to col. 8 line 10). It is noted that as per the recitation of "textual message", Mitsuoka discloses job offer notifications via e-mail which is considered to be a form of "textual message".

(C) As per claim 24, Mitsuoka and Van Wyngarden are entirely silent as to charging a fee upon notifying the employee. It is respectfully submitted that charging a fee for using a system is a means typically employed by Internet web sites for generating revenue, and the skilled artisan would have found charging a fee an obvious modification to the method taught collectively by Mitsuoka and Van Wyngarden with the motivation of providing a means for generating revenue for the organization maintaining the system.

(D) As per claim 25, Mitsuoka discloses receiving notification that a job has been applied for by a contractor, wherein a selection result notification is sent to the contractor who applied for the job, wherein the notification is sent out directly after the application by the contractor has been received, wherein other contractors that applied

Art Unit: 3626

for the same job are notified that they have not been selected (col. 9 lines 5-55). The motivation for combining Mitsuoka and Van Wyngarden is given above in claim 17, and incorporated herein.

(E) System claim 26 differs from method claim 17 by reciting hardware elements, namely, namely, a database of employees, a filtering system, and a notification system. These elements were disclosed above in the rejection of claim 17, and therefore claim 26 is rejected for the same reasons as claim 17, and incorporated herein.

(F) As per claims 27-28, Mitsuoka discloses a clients and servers, wherein the server stores the database in communication over the Internet (Abstract, col. 2 lines 18-25, col. 6 lines 26-65, col. 7 lines 46-53).

(G) As per claim 32, Mitsuoka discloses the employee being a contractor (col. 8 lines 55-64).

(H) As per claims 37 and 44, Mitsuoka includes receiving notification that a job has been applied for by a contractor, wherein a selection result notification is sent to the contractor who applied for the job by email using the contractor's stored email address, wherein the notification is sent out directly after the application by the contractor has been received, wherein other contractors that applied for the same job are notified that they have not been selected (col. 8 lines 45-63, col. 9 lines 5-55). The remainder of

Art Unit: 3626

claims 37, 42, 44, and 49 repeat the limitations of claim 17, and is therefore rejected for the same reasons.

(I) As per claims 51 and 58-59, Mitsuoka discloses a method for brokering jobs in an open network environment, such as the Internet, comprising (Abstract):

(a) providing a contractor information storage portion or database for storing information concerning the ability of each contractor to process a job (Fig. 16, col. 7 lines 46-56, col. 8 lines 55-67, col. 19 line 43 to col. 20 line 22);

(b) providing a job offer by a job-provider client, wherein the job offer has job information associated with it (such as word count, due date, etc. which reads on "qualifications") (Fig. 3, 19, col. 7 line 59 to col. 8 line 24, col. 12 line 54 to col. 13 line 30);

(c) providing communication between clients and a server over the interface, wherein the server stores the database which allows the job-provider to offer a position (col. 6 lines 26-65, col. 7 lines 10-56, col. 7 line 60 to col. 8 line 25);

(d) determining by a contractor candidate determination portion contractor candidates who can become contractors for the job offer based on the information concerning the ability to process a job of each contractor stored in the contractor information storage portion when receiving a job offer request from the job-provider client and calculating the suitability of the contractor candidates based upon the stored ability information by a suitability calculator, wherein the determining step is performed

Art Unit: 3626

by retrieving information from the database and offering the job only to those contractors that qualify for the job (col. 10 lines 2-50, col. 19 line 42 to col. 20 line 43);

(e) receiving notification that a job has been applied for by a contractor, wherein a selection result notification is sent to the contractor who applied for the job by email using the contractor's stored email address, wherein the notification is sent out directly after the application by the contractor has been received, wherein other contractors that applied for the same job are notified that they have not been selected (col. 8 lines 45-63, col. 9 lines 5-55), wherein the job offer notification is available via email or on a website, and wherein the contractor and job-provider register with the system (col. 1 lines 15-29, col. 7 line 65 to col. 8 line 25, col. 9 lines 46-54, col. 10 line 1 to col. 12 line 53).

The Examiner respectfully submits that Mitsuoka's method of allowing a contractor to register, wherein the method is implemented over the internet using HTTP protocol and email, and wherein a website is used to display notification of jobs would include using a pass code to access the job offers. In particular, the Examiner notes that almost all email systems or websites requiring registration have a user name and password requirement to access the system. However, because Mitsuoka does not explicitly disclose a pass code, the Examiner respectfully submits that Van Wyngarden teaches a website or web browser with a pass code accessible over the Internet (Abstract; col. 5 lines 15-43, col. 6 lines 14-32).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the aforementioned features of Wyngarden within the

Art Unit: 3626

method of Mitsuoka with the motivation of allowing a candidate to pre-register for jobs that suit their qualifications and quickly ascertain whether they have been chosen for the job (col. 1 lines 15-28 and lines 39-56).

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsuoka et al. (6,466,914) and Van Wyngarden (6,038,597) as applied to claim 17, and further in view of Williams et al. (6,873,964).

(A) As per claim 18, the teachings of Mitsuoka and Van Wyngarden and the motivation for their combination are given above, and incorporated herein.

Williams discloses when it is determined that one of the identified candidates should be offered more than one job as determined by the hiring needs, all jobs pertinent to the one of the associated candidates are offered substantially simultaneously to the one of the identified candidates (Abstract, col. 9 lines 1-25).

At the time the invention was made it would have been obvious to one of ordinary skill in the art to include the features of Williams within the method of Mitsuoka and Van Wyngarden with the motivation of simultaneously filling multiple vacancies by multiple qualified candidates (Williams; col. 1 lines 10-30).

9. Claims 30-31, 36, 43, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsuoka et al. (6,446,914) and Van Wyngarden (6,038,597) as applied to claim 26, 37, and 44, and further in view of Thompson et al. (6,334,133).

Art Unit: 3626

(A) As per claims 30-31, 43, and 50, the teachings of Mitsuoka and Van Wyngarden and the motivation for their combination are given above, and incorporated herein.

Mitsuoka and Van Wyngarden fail to expressly disclose a training system operable to provide instructions to an employee at a remote computer coupled with the database and an employee being a substitute teacher.

Thompson discloses the server relaying instructions from the organization or messages from the absent worker to the substitute at a remote computer and interface, including summary substitute assignment reports, instructions, and course information (Fig. 12, col. 4 lines 65 to col. 5 line 4, col. 6 lines 1-45, col. 7 lines 19-54, col. 8 lines 15-63, and col. 10 lines 8-20). In addition, Thompson discloses the central server automatically generating a list of one or more substitute workers (reads on "temporary worker) for each absent worker in response to information representing absent workers, and wherein the worker can also be a teacher and the substitute worker is a substitute teacher (Fig. 12, col. 1 lines 44-60, col. 2 line 51 to col. 3 line 5, col. 6 lines 24-39, col. 8 lines 15 to col. 10 line 7 and col. 12 lines 1-13).

At the time the invention was made, it would have been obvious to include the features of Thompson within the system and method taught collectively by Mitsuoka and Van Wyngarden with the motivation of reducing the time and effort required to find a substitute teacher (Thompson; col. 1 line 18 to col. 2 line 67).

Art Unit: 3626

(B) As per claim 36, the teachings of Mitsuoka and Van Wyngarden and the motivation for their combination are given above, and incorporated herein.

Mitsuoka and Van Wyngarden fail to expressly disclose a prioritizing system operable to set a priority from a set of ordered priorities for each employee such that the notification system notifies first each employee having a first priority.

Thompson discloses the substitute fulfillment system compiling a list of preferred replacements and a back-up list of acceptable replacements, wherein the compiling step includes the organization identifying qualifications or criteria for selecting an acceptable replacement for a particular worker and then compiling the aforementioned lists by searching for potential replacements with the requisite qualifications in a master list of replacements, wherein the server then contacts the potential replacements (col. 9 lines 40-67).

At the time the invention was made, it would have been obvious to include the features of Thompson within the system taught collectively by Mitsuoka and Van Wyngarden with the motivation of allowing parties to match to projects based on quantitative measures thus providing the best worker for a particular project.

10. Claims 60-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsuoka et al. (6,466,914) and Van Wyngarden (6,038,597) as applied to claim 17, 26, 37, 44, 51, and 58, and further in view of Taylor (5,832,497).

Art Unit: 3626

(A) As per claims 60-71, Taylor discloses web page displaying information specific to an employee that has previously filled the position and wherein the information specific to an employee was entered to the database by the employee (col. 1 lines 20-45, col. 1 lines 49-65, col. 5 lines 15-62).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied prior art teaches a method and system for recruiting personnel (6,873,964), a computerized job search system and method for posting and searching job openings via a computer network (5,978,768), in a class by itself revolutionary computer finds substitute teachers (Work), throwing out the sub routine now computers (Baca), EBR schools install a system to track substitute teachers (King), and an automated substitute finder system.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (571) 272-6767. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached at (571) 272-6776.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

13. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306 or (703) 872-9326 [Official communications]

(703) 872-9327 [After Final communications labeled "Box AF"]

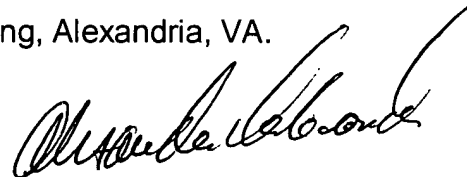
(571) 273-6767 [Informal/ Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand-delivered responses should be brought to the Knox Building, Alexandria, VA.

CB

CB

June 7, 2005



**ALEXANDER KALINOWSKI
PRIMARY EXAMINER**

Application/Control Number: 09/641,866
Art Unit: 3626